

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 687

Case No. 91-4

(Text Amendment - Validity of PUDs)

February 11, 1991

EMERGENCY ORDER

On February 11, 1991, the Zoning Commission for the District of Columbia considered Case No. 89-34C (PUD & Map Amendment @ 1331 L Street, N.W.) for final action. Case No. 89-34C is a Planned Unit Development proposal to construct an office/retail building of the above-mentioned address. One of the amenities of the PUD project is a \$3 million contribution to assist with the financing of a PUD at 5th Street and Massachusetts Avenue, N.W., which consists of 209 residential units (aka Peabody PUD). In addition to final action consideration in Case No. 89-34C (Z.C. Order No. 684), the Commission also considered a request of the applicant to extend the validity of the PUD project for a period of time beyond that provided for by 11 DCMR 2406. For the reasons set forth herein, the Zoning Commission decided to effect emergency rulemaking to amend 11 DCMR 2406.

Whereas, by Z.C. Order No. 681 dated December 17, 1990, the Zoning Commission adopted amendments to the text of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning, and the Zoning Map of the District of Columbia to create and map the Downtown Development Overlay District; and

Whereas, one of the major policy and goals and objectives of the Downtown Development District Overlay is to produce housing in the downtown area; and

Whereas, the Peabody PUD at 5th Street and Massachusetts Avenue, N.W., will provide a significant number of residential units in the downtown area; and

Whereas, a national economic down-turn has adversely affected the local real estate economy; and

Whereas, the Peabody PUD project has fallen victim to the slow economy and has encountered financing difficulties; and

Whereas, the applicant in Case No. 89-34C, as an amenity, proposes to grant \$3 million to assist in the financing of the Peabody PUD project; and

Whereas, the applicant in Case No. 89-34C has expressed a strong

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concern about the risk of making a \$3 million-up-front-payment with a related short-term vesting opportunity to develop and lease the PUD site at 1331 L Street, N.W., pursuant to 11 DCMR 2406.8 and 2406.9; and

Whereas, 11 DCMR 2406.8 and 2406.9 never contemplated off-site housing linkage amenities and the additional time that may be needed to facilitate and produce such amenities; and

Whereas, the Zoning Commission believes that the best interest of the District of Columbia is served by facilitating, whenever reasonably possible, the production of downtown housing units; and

Whereas, it is necessary and reasonable that the Zoning Commission address this issue in a manner that operates in Planned Unit Developments throughout the District of Columbia, and is not limited to one PUD; and

Whereas, Section 5-413 of the D.C. Code establishes the authority of the Zoning Commission "to promote the health, safety, morals, convenience, order, prosperity, or general welfare of the District of Columbia"; and

Whereas, Section 1-1506 (c) of the District of Columbia Code authorizes the Zoning Commission to take emergency action for a period not to exceed 120 days "for the immediate preservation of public peace, health, safety, welfare, or morals";

Now, Therefore, The Zoning Commission for the District of Columbia resolves that an emergency exists that requires an immediate amendment to the Zoning Regulations to protect the general welfare of the District of Columbia. It is therefore ordered that authority to approve additional vesting opportunities be granted in Planned Unit Development cases by amending the Zoning Regulations on an emergency basis as follows:

Adopt a new 11 DCMR 2406.13, to read as follows:


2406.13 As a condition to its approval of a project that provides off-site housing, the Commission may provide that construction shall start within five years of the date of final approval.

This amendment to the District of Columbia Municipal Regulations, Title 11, Zoning, shall take effect immediately and shall remain in effect for a period not to exceed 120 days from February 11, 1991

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that is, through June 10, 1991.

This emergency rulemaking was adopted by the Zoning Commission at the public meeting on February 11, 1991 by a vote of 5-0 (Lloyd D. Smith, Maybelle Taylor Bennett, William L. Ensign, John G. Parsons and Tersh Boasberg to adopt emergency rulemaking).

Attested By: 

EDWARD L. CURRY
Executive Director
Zoning Secretariat

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